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09/696,465	10/25/2000	Charles C. Birkner		4034

7590 03/03/2004  
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EXAMINER

VAN DOREN, BETH

ART UNIT PAPER NUMBER

3623

DATE MAILED: 03/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/696,465

Applicant(s)

BIRKNER ET AL.

Examiner

Beth Van Doren

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MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The following is a final office action in response to communications received on 12/27/03. Claims 1, 11, and 12 were amended. Claims 1-20 are now pending.

#### ***Response to Amendment***

2. Applicant's amendments to claims 11 and 12 are sufficient to overcome the claim objections and the 35 USC § 112, second paragraph, rejections set forth in the previous office action.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 1-6, 8-12, and 14-20 are rejected under 35 U.S.C. 102(a) as being anticipated by Meridian Project Systems, Inc. (www.mps.com), archived by archive.org between 12/1999-01/2000.

5. As per claim 1, Meridian Project Systems, Inc. teaches a construction management system, comprising:

A handheld computer adapted to collect construction data from the field (See at least page 1, section 1-4, and page 28, sections 1 and 3, wherein a handheld computer is disclosed that allows construction data to be collected from the field);

a planning system to track budgetary information that manages multi-year budgets (See at least page 1, sections 1-2, page 2, section 1, page 3, section 3, page 13, sections 1-3, pages 14-

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16, page 17, sections 1-3, page 19, and page 28, sections 1-3, wherein planning system features are disclosed that track the budget information. See also pages 30 and 31, page 32, section 1, and page 33, section 1, wherein dates for the project can be entered and multi-year projects can be planned and managed using a budget tracking system);

A design system to perform site engineering assessment (See at least page 1, sections 1-4, page 2, section 1, page 3, sections 1-5, page 13, sections 1 and 3, page 15, and page 28, sections 1-3, which includes a system for engineers and engineering site analysis);

A construction system to track material consumption and progress for each project, the construction system adapted to receive data collected from the handheld computer (See at least page 1, sections 1-2, page 2, section 1, page 3, sections 1-5, page 4, page 13, sections 1-3, pages 14-16, page 17, sections 1-3, page 19, and page 28, sections 1-3, which discloses a construction system to track progress and material consumption to generate reports using information from the handheld computer).

6. As per claim 2, Meridian Project Systems, Inc. teaches a system wherein the handheld computer collects work in progress data (See at least page 1, sections 1-2, page 2, section 1, page 3, sections 1-5, and page 4, wherein the handheld computer is used to collect work in progress data).

7. As per claim 3, Meridian Project Systems, Inc. teaches a system wherein the handheld computer collects project and contract identification, inspector identification, item number, location, and one or more description of activities (See page 1, sections 1-4, page 3, sections 1-5, pages 10-12, page 13, page 14, section 1, page 15, sections 5 and 6, and page 16, which includes project and contract identification, item numbers, location, and one or descriptions).

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8. As per claim 4, Meridian Project Systems, Inc. discloses a system wherein the handheld computer collects labor related information (See page 1, section 1-4, page 2, page 3, section 1, pages 11-12, page 13, page 15, section 6, page 16, section 1, and page 28, sections 1-3, wherein the handheld computer collects information including labor information).

9. As per claim 5, Meridian Project Systems, Inc. discloses a system wherein the handheld computer collects labor type, quantity, and hours (See page 1, section 1-4, page 2, page 3, section 1, page 12, page 13, page 15, section 6, page 16, section 1, and page 28, sections 1-3, wherein the handheld computer collects labor type, quantity, and hours).

10. As per claim 6, Meridian Project Systems, Inc. teaches a system wherein the handheld computer collects equipment information (See page 1, sections 1-4, page 3, section 2, page 13, page 15, section 5, and page 28, sections 1-3, which discloses equipment information being collected via the handheld computer).

11. As per claim 8, Meridian Project Systems, Inc. teaches a system wherein the handheld computer collects submittal information (See at least page 1, sections 1-2, page 2, section 1, page 3, sections 1-5, page 4, page 13, page 15, and page 28, sections 1-3, which disclose the handheld computer collecting submittal information).

12. As per claim 9, Meridian Project Systems, Inc. teaches a system wherein the handheld computer collects weather condition, comments, and an inspector name (See page 1, section 2, page 3, sections 1-5, pages 10-12, page 13, section 3, page 16, section 2, and page 28, sections 1-3, wherein the handheld computer collects weather condition, comments, and an inspector name).

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13. As per claim 10, Meridian Project Systems, Inc. discloses a system wherein the handheld computer sends collected information to a server (See page 1, sections 1-4, pages 5-6, page 8, section 1, pages 19-20, and page 28, sections 1-3, wherein the handheld computer uploads and downloads information to a server).

14. As per claim 11, Meridian Project Systems, Inc. teaches a system wherein the collected information is sent wirelessly transmitted using a handheld wireless unit (See page 1, sections 1-4, pages 5-6, page 8, section 1, pages 19-20, and page 28, sections 1-3, wherein the collected information is wirelessly transmitted. Page 8, section 1, discloses a technical requirement of the handheld unit as ActiveSync 3.0, which allows for wireless data transmissions).

15. As per claim 12, Meridian Project Systems, Inc. teaches a system further comprising a modem coupled to the handheld computer, wherein the information is transmitted using a modem (See page 1, sections 1-4, pages 5-6, page 8, section 1, pages 19-20, and page 28, sections 1-3, wherein the collected information is wirelessly transmitted. Page 8, section 1, discloses a technical requirement of the handheld unit as ActiveSync 3.0, which allows for transmissions using a modem).

16. As per claims 14, 15, 16, 17, and 18, claims 14, 15, 16, 17, and 18 are method version of claims 1, 2, 4, 9, and 11, respectively, and are therefore rejected using the same art and rationale as the rejections of claims 1, 2, 4, 9, and 11, respectively.

17. As per claim 19, Meridian Project Systems, Inc. teaches a method wherein the handheld computer collects project and contract identification, inspector identification, item number, location, one or more description of activities, labor type, quantity, hours, weather condition, comments, and an inspector name (See page 1, sections 1-4, page 3, sections 1-5, pages 10-12,

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page 13, page 14, section 1, page 15, sections 5 and 6, and page 16, which includes project and contract identification, item numbers, location, and one or descriptions. See page 1, section 2, page 3, sections 1-5, pages 10-12, page 13, section 3, page 16, section 2, and page 28, sections 1-3, wherein the handheld computer collects weather condition, comments, and an inspector name).

18. As per claim 20, Meridian Project Systems, Inc. teaches a method further comprising sending collected information to a server over a land-line or wireless medium (See page 1, sections 1-4, pages 5-6, page 8, section 1, pages 19-20, and page 28, sections 1-3, wherein the collected information is wirelessly transmitted. Page 8, section 1, discloses a technical requirement of the handheld unit as ActiveSync 3.0, which allows for wireless data transmissions).

***Claim Rejections - 35 USC § 103***

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meridian Project Systems, Inc. ([www.mps.com](http://www.mps.com)).

20. As per claim 7, Meridian Project Systems, Inc. discloses a system wherein the handheld computer collects equipment information, including summary information by company (See at least page 1, sections 1-4, page 3, section 2, page 11, and page 15, section 5, wherein the handheld computer collects equipment type).

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However, Meridian Project Systems, Inc., does not expressly disclose that this information includes type, quantity, hours in use and stand-by hours.

Meridian Project Systems, Inc. discloses collecting and reporting information about equipment used in a construction project. Type, quantity, hours in use and stand-by hours are all known equipment information items in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to include type, quantity, hours in use and stand-by hours in the information collected about the equipment of the project in order to increase the accuracy and the detail of the information collected and stored in the system. Page 1, section 2, discusses the importance of accurate and detailed information.



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21. As per claim 13, Meridian Project Systems, Inc. discloses a system further comprising a cradle coupleable to the handheld computer, the cradle gathering the collected information for transmission to a server (See page 1, sections 1-4, pages 5-6, page 8, section 1, pages 19-20, and page 28, sections 1-3, wherein the collected information is wirelessly transmitted. Page 8, section 1, discloses a technical requirement of the handheld unit as ActiveSync 3.0, which allows for coupling for transmission).

However, Meridian Project Systems, Inc. does not expressly disclose a hot-sync cradle.

Meridian Project Systems, Inc. discloses that the handheld computer couples with another computer to download and upload collected data. HotSync is known in the art and is the registered trade name for a method of linking between a handheld computer and a more substantial computer. It would have been obvious to one of ordinary skill in the art at the time of the invention to use HotSync to transmit the information in order to more efficiently transfer information, as discussed on page 1, section 2.

### ***Response to Arguments***

22. Applicant's arguments with regards to the rejections based on Meridian Project Systems, Inc. ([www.mps.com](http://www.mps.com)) have been fully considered but they are not persuasive. In the remarks, Applicant argues that Meridian Project Systems, Inc. does not teach or suggest (1) tracking funding sources, the allocation of funding sources, and scheduling information and cannot maintain data relating to primary site feasibility studies, such as estimates of the cost of the projects, (2) managing the multi-year capital improvement budget process for program management that requires a system to adjust projects based on priorities, condition assessments, and maintenance considerations, and (3) a design system to perform site engineering assessment,

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design functionality, or the embodiment of design system discussed on page 8, lines 1-16, of the applicant's response.

In response to argument (1) of the Applicant, it is noted that the features upon which applicant relies (i.e., tracking funding sources, the allocation of funding sources, and scheduling information, maintaining data relating to primary site feasibility studies, etc.) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Claim 1 broadly recites "track[ing] budgetary information" and "track[ing] material consumption and progress for each project". Claim 14 recites the same limitations. Examiner maintains that Meridian Project Systems, Inc. does teach these claimed limitations, as explained above. Furthermore, if Applicant intends for the claim limitations to mean something more specific, Examiner recommends that the Applicant amend the claims to clearly recite these features.

In response to argument (2) of the Applicant, it is again noted that the features upon which applicant relies (i.e., managing the multi-year capital improvement budget process for program management that requires a system to adjust projects based on priorities, condition assessments, and maintenance considerations) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Claim 1 broadly recites "a planning system to track budgetary information that manages multi-year budgets", which was added in the amendment of the 12/27/03 communications. Claim 14 does not recite any multi-year limitations. Examiner asserts that Meridian Project Systems, Inc.

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does disclose this limitation, as discussed above in the new rejections necessitated by amendment, when MPS discloses controlling costs and budget tracking systems that handle quantities and times across multi-year projects, allowing the company to manage price contracts, determine net cash, forecast revenue, etc. Again, if Applicant intends for the claim limitations to mean something more specific, Examiner recommends that the Applicant amend the claims to clearly recite these features.

In response to argument (3) of the Applicant, Examiner respectfully disagrees. Examiner points out that claim 1 broadly recite “a design system to perform site engineering assessment” and claim 14 recites “performing site engineering assessment using a design system”. Meridian Project Systems, Inc. does teach and suggest these limitations in at least page 1, sections 1-4, page 2, section 1, page 3, sections 1-5, page 13, sections 1 and 3, page 15, and page 28, sections 1-3, which includes a system usable by engineers and others to perform assessments at the site and input this information into the system for analysis, reporting, etc. Again, the features discussed by the applicant in his response, specifically those on page 8, lines 1-16, are not recited in the rejected claims. Examiner again recommends that the Applicant amend the claims to clearly recite the features of the invention.

### ***Conclusion***

23. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Pollalis et al. (U.S. 5,016,170) discloses task management in a construction field.

Nummelin et al. (U.S. 6,308,164) teaches an enterprise management system which manages projects, resources, tasks, etc. across the project using input at distributed terminals.

Isherwood (U.S. 5,918,219) discloses a system for estimating construction costs.

Ito (U.S. 5,761,674) discloses an integrated construction management system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (703) 305-3882.

The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Qwd*

bvd

February 23, 2004

  
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